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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 United States of America, No. CR-15-01521-PHX-DLR
10 Plaintiff,
11 v.
12 Evelyn Nayelly Garcia,
13 Defendant.

DETENTION ORDER

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15 On July 27, 2016, Evelyn Nayelly Garcia (the “Defendant”) appeared before this
16 Court on a Petition to Revoke Conditions of Release and submitted the issue to the Court.
17 The Court considered the information provided to the Court in determining whether the
18 Defendant should be released on conditions set by the Court.

19 The Court makes the following findings under 18 U.S.C. § 3148(b)(1):

20 There is probable cause to believe that the Defendant has committed a
21 Federal, State, or local crime while on release.

22 There is clear and convincing evidence that the Defendant has
23 violated the conditions of release.

24 The Court makes the following findings under 18 U.S.C. § 3148(b)(2):

25 Rebuttable Presumption where Probable Cause to Believe Felony
26 Committed on Pretrial Release. The Defendant has failed to rebut the
27 presumption that no condition or combination of conditions will
28 assure that the Defendant will not pose a danger to the safety of any
other person or the community. *See* 18 U.S.C. § 3148(b)(2)

1 (providing that rebuttable presumption of dangerousness applies if
2 there is probable cause to believe that while on release a defendant
3 has committed a Federal, State, or local felony).

4 Flight Risk. After considering the factors set forth in 18 U.S.C. §
5 3142(g), the Court finds by a preponderance of the evidence that there
6 is no condition or combination of conditions of release that will assure
7 that the Defendant will not flee. *See* 18 U.S.C. § 3148(b)(2)(A); *U.S.*
8 *v. Gotti*, 794 F.2d 773, 778 (2nd Cir. 1986) (holding that “findings
9 made under section 3148(b) may be established by a preponderance of
the evidence”).

10 Dangerousness. After considering the factors set forth in 18 U.S.C. §
11 3142(g), the Court finds by a preponderance of the evidence that there
12 is no condition or combination of conditions of release that will assure
13 that the Defendant will not pose a danger to the safety of any other
14 person or the community. *See* 18 U.S.C. § 3148(b)(2)(A); *Gotti*, 794
15 F.2d at 778.

16 Compliance with Conditions. The Court finds by a preponderance of
17 the evidence that the Defendant is unlikely to abide by any condition
18 or combination of conditions of release. *See* 18 U.S.C. §
19 3148(b)(2)(B); *Gotti*, 794 F.2d at 778.

20 **IT IS THEREFORE ORDERED** that the Defendant be detained pending further
21 proceedings.

22 Dated this 28th day of July, 2016.

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Honorable Eileen S. Willett
United States Magistrate Judge